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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/809,481	03/26/2004	Satoshi Ando	2004-0466A	8335
52349 7590 04/01/2009 WENDEROTH, LIND & PONACK L.L.P. 1030 15th Street, N.W. Suite 400 East Washington, DC 20005-1503				
EXAMINER SIKRI, ANISH				
ART UNIT 2443		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/809,481

Applicant(s)

ANDO ET AL.

Examiner

ANISH SIKRI

Art Unit

2443

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- _____ Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- _____ Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claims 1-14 are cancelled.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 15-19 are rejected under 35 U.S.C. 101. The limitation in the claims relating to conditions does not appear to be tied to a particular apparatus. The 'condition' element should be tied with storage memory for example.

Claim(s) 15-19 is/are rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. While the claims recite a series of steps or acts to be performed, a statutory "process" under 35 U.S.C. 101 must (1) be tied to particular machine, or (2) transform underlying subject matter (such as an article or material) to a different state or thing. See page 10 of In Re Bilski 88 USPQ2d 1385. The instant claims are neither positively tied to a particular machine that accomplishes the claimed method steps nor transform underlying subject matter, and therefore do not qualify as a statutory process. The Claims 15-19 state the method including steps of condition which is broad enough that the claim could be completely performed mentally, verbally or without a machine nor is any transformation apparent. For example, the rejection

can be overcome if the hold time settings are stated in a way like "conditions stored in memory" for example.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.

3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 15-16, 18-20, 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Terada et al (US Pat 6111883) hereafter known as Terada, in view of Morehead et al, (US Pub 20020077801) hereafter known as Morehead, and in further in view of Pandya et al (US Pat 7260635) hereafter known as Pandya, and in further view of Swales (US Pat 6,321,272).

Consider Claim 15, Terada et al discloses the method of controlling access of a terminal to a server, the access being controlled via a repeater (Terada et al, Fig 1-3,

Col 4 Lines 13-20), the terminal being from an outside network and the server being from an inside network, the inside network and the outside network being connected via the repeater (Terada et al, Fig 1-3, Col 4 Lines 13-20), and the method comprising: permitting, via the repeater, a transmission of packets from the terminal to the server (Terada et al, Fig 1-3, Col 4 Lines 13-20), and limiting, via the repeater, the transmission of the packets according to first conditions, the packets including authentication information (Terada et al, Col 7 Lines 54-64); changing conditions limiting the transmission of the packets by generating, from the first conditions (Terada et al, Col 7 Lines 54-64). Terada et al does disclose on how client—servers in public and private networks can communicate with the use of repeaters (Terada et al, Fig 1-3, Col 4 Lines 13-20), along with sending packets with authentication information (Terada et al, Col 7 Lines 54-64).

But Terada et al does not explicitly disclose the conditions being changed to the second conditions when the server acknowledges a connection between the server and the terminal.

Nonetheless, Morehead et al discloses on the second condition in which the server acknowledges a connection between the server and the terminal in which the transmission of the packets (Morehead et al, [0011]). Morehead et al does disclose that the server is able to maintain and initiating multiple connections to servers/terminals/clients/remote consoles (Morehead et al, [0011]). .

Both Morehead and Terada provide features related to network management. Therefore one of ordinary skill in the art would have been motivated to combine the teachings since both are within the same environment.

Therefore it would have been obvious to a person skilled in the art at the time of the invention to make use of a server which can initiate connections to terminals, taught by Morehead et al, in the system of Terada et al for the purpose of creating connections between servers and terminals in private and public networks with the use of repeaters

But Terada et al does not explicitly disclose on how the transmission of the packets is limited according to the first conditions; and controlling the repeater to limit the transmission of the packets according to the second conditions, wherein each of the first conditions and each of the second conditions represent a bandwidth limitation of the transmission of the packets, and wherein the bandwidth limitation represented by each of the first conditions is narrower than the bandwidth limitation represented by the second conditions.

Nonetheless, Pandya et al discloses transmission of the packets is limited according to the first conditions; and controlling the repeater to limit the transmission of the packets according to the second conditions (Pandya et al, Col 2 Lines 37-52, Col 8 Lines 46-57), wherein each of the first conditions and each of the second conditions represent a bandwidth limitation of the transmission of the packets (Pandya et al, Col 2 Lines 37-52, Col 8 Lines 46-57), and wherein the bandwidth limitation represented by each of the first conditions is narrower than the bandwidth limitation represented by the second conditions (Pandya et al, Col 2 Lines 37-52, Col 8 Lines 46-57). Pandya et al

discloses on how the bandwidth limit can be applied to the network, the bandwidth can be either raised or lowered.

Both Pandya and Terada provide features related to network management. Therefore one of ordinary skill in the art would have been motivated to combine the teachings since both are within the same environment.

Therefore it would have been obvious to a person skilled in the art at the time of the invention to make use of bandwidth limit or throttling to control the flow of packets/data/transmission, taught by Pandya et al, in the system of Terada for the purpose of controlling bandwidth between the server and terminals of the network(s).

But Terada does not explicitly disclose after permitting the transmission of the packets according to the first conditions.

Nonetheless, Swales discloses after permitting the transmission of the packets according to the first conditions (Swales, Col 13 Lines 46-51, Swales discloses that the packets coming from outside to the network, need to pass through the throttling router, and thus Swales controls the packets bandwidth before transmitting the packets to the server and the terminals).

Both Swales and Terada provide features related to network congestion management. Therefore one of ordinary skill in the art would have been motivated to combine the teachings since both are within the same environment.

Therefore, it would have been obvious to a person skilled in the environment to incorporate the use of permitting packets entering the system to be throttle before being

passed in the network, taught by Swales, in the system of Terada for the purpose of efficient network management.

Consider Claim 16, Terada-Morehead-Pandya-Swales discloses the method according to claim 15, wherein the changing of the conditions by generating the second conditions includes changing conditions of a flow defined by (i) an address of the terminal, (ii) a port number of the terminal, (iii) an -address of the server, and (iv) a port number of the server (Pandya et al, Col 9 Lines 34-50).

Consider Claim 18, Terada-Morehead-Pandya-Swales discloses the method according to claim 15 further comprising:

(i) a flow of packets transmitted via the first communication unit and the second communication unit (Pandya et al, Col 6 Lines 59-62) (ii) a bandwidth threshold value of the flow (Pandya et al, Col 8 Lines 44-57, Col 12 Lines 50-60), and (iii) a measured bandwidth value of the flow (Pandya et al, Col 15 Lines 53-67, Col 16 Lines 1-8), a bandwidth of the classified flow, generating, via the measuring unit, a measured value based on the measured bandwidth, and storing the measured value within the information stored in the storing unit defining the classified flow (Pandya et al, Col 15 Lines 53-67, Col 16 Lines 1-8); comparing, via a judging unit of the repeater, the measured bandwidth of the classified flow with a bandwidth threshold value of the information in the storing unit defining the classified flow (Pandya et al, Col 15 Lines 30-

50), the bandwidth threshold value of the classified flow being represented by the first conditions, and judging, via the judging unit, whether or not transmission of the classified flow is acknowledged (Pandya et al, Col 17 Lines 35-67, Col 18 Lines 1-20); and transmitting, via at least one of the first communication unit and the second communication unit, packets belonging to the acknowledged classified flow, the transmitting being limited according to the second conditions representing the bandwidth threshold value of the classified flow (Pandya et al, Col 17 Lines 35-67, Col 18 Lines 1-20). Pandya et al discloses on how the bandwidth in the network by is re-calculated, reallocated, based on measurements and threshold values (optimum and below optimum bandwidth) (Pandya et al, Col 17 Lines 35-67, Col 18 Lines 1-20).

Consider Claim 19, Terada-Morehead-Pandya-Swailes discloses the method according to claim 18, further comprising setting the bandwidth threshold value of the classified flow stored in the storing unit (Pandya et al, Col 8 Lines 44-57, Col 12 Lines 50-60), wherein the bandwidth threshold value is set to a value that limits the transmission of the packets belonging to the classified flow to a narrow bandwidth (Pandya et al, Col 12 Lines 49-60), represented by the first conditions, until the server acknowledges the transmission of the classified flow, and wherein the bandwidth threshold value is set to a value that limits the transmission of the packets belonging to the classified flow to a wide bandwidth (Pandya et al, Col 15 Lines 30-50), represented by the second conditions and being a wider bandwidth than the narrow bandwidth, once

the server acknowledges the transmission of the classified flow (Pandya et al, Col 17 Lines 35-67, Col 18 Lines 1-20). Pandya et al discloses on how the bandwidth is reallocated (for example less to more) based on priority of the application or the service, or bandwidth can have limits enforced on it (Pandya et al, Col 8 Lines 46-57).

Claim 20, has similar limitations of Claim 18. Therefore it is rejected under the same rationale as Claim 18.

Consider Claim 22, Terada-Morehead-Pandya-Swales discloses server according to claim 20, further comprising an encryption unit operable to decode an encrypted packet, wherein the communication unit is operable to notify the repeater of access control information concerning the encrypted packet (Pandya et al, Col 10 Lines 30-35). Pandya et al discloses on how VPN or IPSEC encrypted data can be transmitted on the network packet (Pandya et al, Col 10 Lines 30-35).

Claims 17, 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Terada et al (US Pat 6111883) hereafter known as Terada, in view of Morehead et al, (US Pub 20020077801) hereafter known as Morehead, and in view of Pandya et al (US Pat 7260635) hereafter known as Pandya, in view of Swales (US Pat 6,321,272) and further in view of Jacobi et al (US Pat 6996818) hereafter known as Jacobi.

Consider Claim 17, Terada-Morehead-Pandya-Swales fail to disclose the method according to claim 15, wherein storing access control information in the server; storing the access control information in the repeater (Jacobi et al, Col 2 Lines 4-10, Col 4 Lines 17-25); and when the access control information is changed by the server, notifying the repeater that the access control information has changed. Nonetheless, Jacobi et al discloses the storing of the access control information in the repeater (Jacobi et al, Col 2 Lines 4-10, Col 4 Lines 17-25); and when the access control information is changed by the server, notifying the repeater that the access control information has changed (Jacobi et al, Col 3 Lines 24-29). Jacobi does show on access control information can be stored in the system, and the system gets notified if there is an update to the code by the server(s) (Jacobi et al, Col 2 Lines 4-10, Col 3 Lines 24-29, Col 4 Lines 17-25).

Both Jacobi and Terada-Morehead-Pandya-Swales provide features related to system management. Therefore one of ordinary skill in the art would have been motivated to combine the teachings since both are within the same environment.

Therefore it would have been obvious to a person skilled in the invention to make use of storing access control information in the system, and notifying the system about any update changes to the access control information, taught by Jacobi et al, in the system of Terada-Morehead-Pandya-Swales for the purpose of controlling the repeater

and having it receive updates on the software code if there are any changes from the other nodes/server(s) in the network.

Claim 21, has similar limitations of Claim 17. Therefore it is rejected under the same rational as Claim 17.

Response to Arguments

Applicant's arguments with respect to claims 15-22 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANISH SIKRI whose telephone number is 571-270-1783. The examiner can normally be reached on 8am - 5pm Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tonia Dollinger can be reached on 571-272-4170. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Anish Sikri
a.s.

3/20/09

/Tonia LM Dollinger/

Supervisory Patent Examiner, Art Unit 2443